



CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

Setti D. Warren
Mayor

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Public Hearing Date: February 9, 2010
Land Use Action Date: April 20, 2010
Board of Aldermen Action Date: May 3, 2010
90-Day Expiration: May 10, 2010

DATE: February 5, 2010

TO: Board of Aldermen

FROM: Candace Havens, Acting Director of Planning and Development
Alexandra Ananth, Senior Planner

CH

SUBJECT: **Petition #14-10, DONALD & JILL EURICH** for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND a NONCONFORMING STRUCTURE/USE to locate a home business in a detached barn; to located two tandem parking spaces with the side setback; and, to waive five parking spaces at **7 WALNUT STREET**, Ward 2, NEWTONVILLE, on land known as Sect 21, Blk 22, Lot 4, containing approx 32,716 sf of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec 30-24, 30-23, 30-12(a)(2)b), (b), 30-8(c)(9), (11)d), 30-19(d), (g)(1), (4), and (m) of the City of Newton Rev Zoning Ord, 2007.

CC: Mayor Setti D. Warren

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



EXECUTIVE SUMMARY

The subject property consists of a 32,716 sq. ft. lot currently improved with a single-family residence and a detached accessory carriage house/barn. In March of 2009, the property owner filed an application for special permits to restore and expand the legal nonconforming barn situated behind the main house and to locate a home-based architecture business within the accessory barn structure. While the special permit application was pending, the property owner received a building permit to make some interior improvements to the barn not relating to the approval of special permits. The petitioner also submitted plans for a proposed addition to the Newton Historical Commission and staff approved the proposed demolition and expansion based on the petitioner's intention to restore the original barn structure.

During the course of the interior renovation process the property owner's contractor discovered evidence of a previous fire and determined that the structure had to be demolished and rebuilt rather than renovated. The contractor razed the barn building without contacting or receiving approvals from either the Inspectional Services Department or the Historical Commission. Subsequently, the Inspectional Services Department issued a "stop-work" order as the demolition exceeded the scope of the building permit. The petitioners withdrew their application for special permits and the Historical Commission took punitive action including a fine for the unauthorized demolition and required the property owner to build a replica of the original building in its original location. In December of 2009 the petitioner again went before the Historical Commission who approved the plans for an expansion of the barn for which the petitioner is currently seeking special permits. The property owner is now reapplying for the special permits necessary to expand the replica building and to house his architectural business.

The building is legally nonconforming with respect to the side setback and maximum building size. The proposed addition is to the rear of the building and will not increase the setback nonconformity, but will increase the size of the already nonconforming building. In addition to expanding a nonconforming structure, the petitioner needs special permits for the proposed use as a home business. As the home business is proposed to be 1,408 sq. ft. it has a parking requirement of seven parking stalls. Plans show two parking spaces for the proposed home business. The applicant has stated that he will be the primary user of the studio, will at most have one employee, and that most client meetings take place off-site. He is therefore requesting a parking waiver of five stalls.

Although the Planning Department acknowledges that the barn structure is no longer a historic resource and questions the need for a larger structure, the *Comprehensive Plan* encourages the preservation and adaptive reuse of accessory structures in general. Home based businesses that do not generate many vehicular trips and will not have adverse affects on abutters can contribute to the preservation of such structures. The nature of the proposed home office appears to generate limited traffic and would have little parking demand and the proposed parking waiver appears reasonable in light of the absence of demand for such spaces. Furthermore, the granting of the parking waiver will help preserve the residential character of the property and will minimize the addition of

impervious surfaces on-site. The Planning Department notes that the proposed expanded structure could not be used as an accessory apartment without obtaining additional special permits.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When considering this request, the Board should consider whether:

- The proposed expansion of an already nonconforming structure will be substantially more detrimental than the existing nonconforming structure.
- The use of the structure as a home business is appropriate and will not have any adverse affects on the neighborhood.
- The waiver of five required parking spaces is appropriate for such use and will not create a nuisance or hazard to vehicle or pedestrians or the surrounding neighborhood.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located on the southwest corner of Walnut Street at the intersection with Crafts Street. Most of the surrounding neighborhood is zoned Single Residence 3 with the exception of the F.A. Day Middle School, which is zoned Public Use. Further south off Minot Place there are some two family residences in the Multi-Residence 1 zone. The subject property is the largest residential lot in the immediate neighborhood with most lots ranging from 3,400 to 16,000 sq. ft. The neighborhood has a mix of residences built between 1855 and 2008. The subject property is the only lot with a carriage house or barn in the immediate neighborhood.

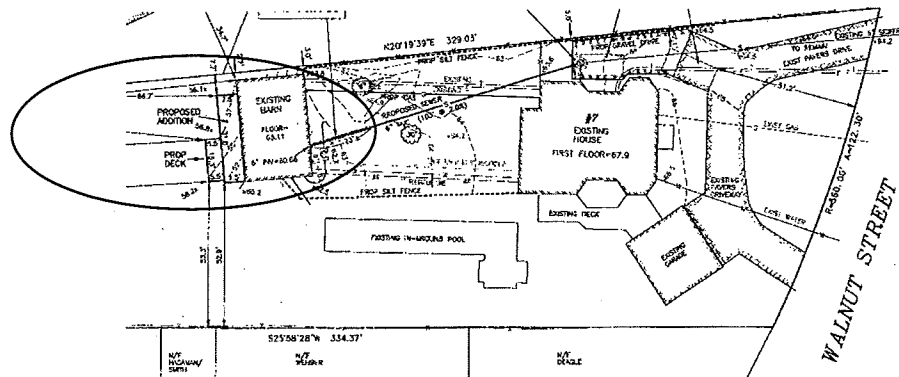
B. Site

The 32,716 sq. ft. site is relatively level, and is improved with an Italinete-style residence dating from approximately 1860. The original barn appears to be circa 1880's but the exact date is not known. The barn was built to complement the main house. The property also contains a modern three-car garage attached to the main house by a deck. Although at one point there appears to have been access to the barn via a driveway, the driveway was removed some time ago. There is also an in-ground pool in the yard behind the house. The site is accessed via a circular driveway with accesses onto Walnut Street.

The petitioner is proposing to change the use of the accessory barn to a home office for his architectural practice. There is an additional garage on-site that the petitioner currently uses for parking.

After the demolition of the original barn structure in the spring of 2009, the petitioner was required to rebuild a replica of the barn in its original location by the Historical Commission. The petitioner is now proposing to expand the approximately 900 sq. ft. footprint by approximately 200 sq. ft. to the rear for an 1,108 sq. ft. footprint. The proposed addition is roughly 7.5 ft. in depth and about 31.8 ft. in width and is not located in either the side or rear setback. The petitioner is also proposing to add an approximately 85 sq. ft. deck off the rear of the addition, which is also located out of all setbacks. The addition would allow for an expanded office and studio and would contain the staircase leading down to the basement. Although the petitioner could rebuild the original structure without the proposed addition by right, special permits are still required for a home business there.

The Planning Department notes that the proposed accessory structure is already quite large and questions the need for additional building space. The Planning Department does acknowledge that there are no immediate residential neighbors who would appear to be adversely impacted. The closest abutter is the F.A. Day Middle School to the west. The closest residential abutter is well over 50 ft. to the east.



Site Plan showing existing barn and proposed rear addition and deck

C. Parking and Circulation

The petitioner is proposing to extend the existing circular driveway along the northwest side of the house with a gravel drive to contain two parking spaces for the barn. Although the Fire Department would prefer the petitioner pave all the way back to the barn, the Planning Department advocates for the site plan as proposed if the petitioner is willing to sprinkle the new building which is currently still under construction. Alternatively the petitioner could propose one additional stall in the side setback where there are existing pavers and not extend the driveway at all, or locate the additional stall in the circular driveway.

The petitioner is proposing two parking stalls for the architectural business where seven are required. The petitioner has stated that he will not have more than one employee and that rarely would client meetings take place on-site. He is therefore requesting a parking waiver of five stalls. The Planning Department feels this may be appropriate given the low intensity of the proposed use. Furthermore, the proposed waiver of parking stalls will help preserve the residential character of the site and minimize impervious surface on-site.

D. Landscape Screening

As the site is already well landscaped and the barn is set deep into the site the Planning Department did not require a landscape plan. Nevertheless a plan was submitted which appears sufficient. The Planning Department notes that the large copper beach tree at the front of the lot will be maintained.

IV. TECHNICAL REVIEWS

A. Technical Considerations (Section 30-15). The Zoning Review Memorandum, dated November 24, 2009 (*SEE "ATTACHMENT A"*), provides an analysis of the proposal with regards to zoning. The existing accessory building (the replica currently being rebuilt on the site) is legally nonconforming with respect to the side setback and maximum building size. The proposed addition will not increase the setback nonconformity, but it will increase the size of the already nonconforming building for which the petitioner must obtain a special permit. The applicant also proposes to use the building in a significantly different manner as a home business for which they must seek a special permit. Additionally the petitioner must seek a special permit for the use of a detached accessory structure for a home business. Finally, the applicant is proposing to waive five required parking stalls for which he must seek a special permit.

B. Newton Historical Commission. Staff originally approved the demolition of a portion of the barn and the current proposed addition based on proposed plans and the fact that the application involved saving and reusing a historic building and given it new life, in December 2008 (*SEE "ATTACHMENT B"*). In March 2009 the

Commission levied a fine for the demolition of a historically significant barn and ordered that an exact replica be constructed in the same location (*SEE "ATTACHMENT C"*). In December of 2009 the Commission approved the application to expand the barn as currently proposed and allowed for a time extension to obtain special permits (*SEE "ATTACHMENT D"*).

- C. Fire Department. The Planning Department did not received a review from the Fire Department as of the printing of this memorandum but discussions regarding the amount of paving which would be required are ongoing. If the Fire Department is satisfied that sprinklering will properly address fire safety concerns, the Planning Department prefers the site plan as proposed (which does not include paving all the way back to the barn).
- D. Engineering. The Engineering Division reviewed the project as proposed and notes that the current site plan does not add more than 400 sq. ft. of impervious surface and, therefore, no drainage improvements are required. The Associate City Engineer also notes that the petitioner will be required to install a cement concrete sidewalk and driveway apron that are currently gravel and asphalt along the southeasterly frontage (*SEE "ATTACHMENT E"*).

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum the petitioners are seeking approval through or relief from:

- Section 30-21(a)(2)(b) and 30-21(b), for an expansion of a nonconforming structure
- Section 30-21(a)(2)(b) for the use of the nonconforming structure in a significantly different manner
- Section 30-8(c)(11)(d) for the use of a detached accessory structure for home business
- Section 30-8(c)(9), 30-19(h), and 30-19(m) to waive five required parking spaces;
- Section 30-23, for site plan approval
- Section 30-24, for approval of special permit

VI. PETITIONERS' RESPONSIBILITIES

The petitioner and Planning Department should continue to work with the Fire Department to resolve parking and access issues for emergency vehicles to the barn.

ATTACHMENTS

- ATTACHMENT A:** *Zoning Review Memorandum dated November 24, 2009*
- ATTACHMENT B:** *Newton Historical Commission Demolition Review Decision dated December 12, 2008*
- ATTACHMENT C:** *Newton Historical Commission Record of Action dated March 27, 2009*
- ATTACHMENT D:** *Newton Historical Commission Record of Action dated December 28, 2009*
- ATTACHMENT E:** *Engineering Department Review dated January 20, 2010*
- ATTACHMENT F:** *Zoning Map*
- ATTACHMENT G:** *Land Use Map*



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 2 – Determination of Applicability
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. General Information

Important:
When filling out
forms on the
computer, use
only the tab
key to move
your cursor -
do not use the
return key.



From:

Newton
Conservation Commission

To: Applicant

24 Pine, LLC, c/o David Carlen

Name

135 Berkeley Street

Mailing Address

Newton

MA

02465

City/Town

State

Zip Code

Property Owner (if different from applicant):

Name

Mailing Address

City/Town

State

Zip Code

1. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

Existing Conditions Site Plan #22 & 24 Pine Street Newton, MA

Title

1-8-2010

Date

Title

Date

Title

Date

2. Date Request Filed:

1-13-2010

B. Determination

Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination.

Project Description (if applicable):

Identification and delineation of wetland soils and vegetation, and/or other wetland jurisdictional areas.

Project Location:

22 & 24 Pine St., and Auburndale Av. Rear

Street Address

44017|44017|44017

Assessors Map/Plat Number

Newton

City/Town

0046|0045|0092

Parcel/Lot Number



Massachusetts Department of Environmental Protection
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WPA Form 2 – Determination of Applicability
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Determination (cont.)

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

Positive Determination

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) or Order of Resource Area Delineation (issued following submittal of Simplified Review ANRAD) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

☐ 1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.

☐ 2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

☐ 2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

☐ 3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.

☐ 4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent or ANRAD Simplified Review (if work is limited to the Buffer Zone).

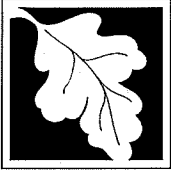
☐ 5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

Name

Ordinance or Bylaw Citation



Massachusetts Department of Environmental Protection
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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

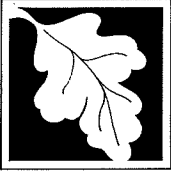
B. Determination (cont.)

- ☐ 6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:
-
- ☐ 7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)c. for more information about the scope of alternatives requirements):
- ☐ Alternatives limited to the lot on which the project is located.
 - ☐ Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
 - ☐ Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
 - ☐ Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

- ☒ 1. The area described in the Request is not an area subject to protection under the Act or the Buffer Zone.
- ☐ 2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
- ☐ 3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).
-
- ☐ 4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

D. Appeals

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate Department of Environmental Protection Regional Office (see <http://www.mass.gov/dep/about/region.findyour.htm>) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see Request for Departmental Action Fee Transmittal Form) as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant if he/she is not the appellant. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

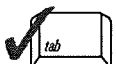
Request for Departmental Action Fee Transmittal Form

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. Request Information

Important:

When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Person or party making request (if appropriate, name the citizen group's representative):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

Project Location

Mailing Address

City/Town

State

Zip Code

2. Applicant (as shown on Notice of Intent (Form 3), Abbreviated Notice of Resource Area Delineation (Form 4A); or Request for Determination of Applicability (Form 1)):

Name

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

3. DEP File Number:

B. Instructions

1. When the Departmental action request is for (check one):

- ☐ Superseding Order of Conditions (\$100 for individual single family homes with associated structures; \$200 for all other projects)
- ☐ Superseding Determination of Applicability (\$100)
- ☐ Superseding Order of Resource Area Delineation (\$100)

Send this form and check or money order for the appropriate amount, payable to the *Commonwealth of Massachusetts* to:

Department of Environmental Protection
Box 4062
Boston, MA 02211



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Request for Departmental Action Fee Transmittal Form

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

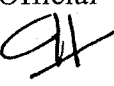
B. Instructions (cont.)

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <http://www.mass.gov/dep/about/region/findyour.htm>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Zoning Review Memorandum

Dt: November 24, 2009

To: John Lojek, Commissioner of Inspectional Services

Fr: Eve Tapper, Chief Zoning Code Official
Candace Havens, Chief Planner 

Cc: Michael Kruse, Director, Department of Planning and Development
Laurance Lee, representing Donald Eurich
Ouida Young, Associate City Solicitor

RE: Request to use a detached accessory structure for a home business.

Applicant: Donald and Jill Eurich**Site:** 7 Walnut Street**SBL:** Section 21, Block 22, Lot 4**Zoning:** SR-3**Lot Area:** 32,716 sq. ft.**Current use:** Single-family residence with accessory structure**Proposed use:** Single-family residence with home business in accessory structure.**Background:**

The subject property consists of a 32,716 sq. ft. lot currently improved with a single-family residence. In March 2009, the property owner, an architect, applied for special permits to (1) expand an existing, legal, nonconforming barn situated behind the main house and (2) locate a home-based architecture business in an accessory structure (the barn). While the special permit applications were pending, the property owner received a building permit to make interior improvements to the barn. At that time, he was advised by the Inspectional Services Department that he was not permitted to add on to the building nor use the structure for his home business without the approval of special permits from the Board of Alderman.

The property owner also submitted plans for the proposed addition to the Historical Commission under the City's demolition delay ordinance. The Commission granted approval of the proposed plans.

During the course of the interior renovation, the property owner's contractor discovered evidence of a previous fire and determined that the structure had to come down. The contractor demolished the building without proper City permits or approvals. The Historical Commission took punitive action and the property owner withdrew his special permit application until the situation could be resolved.

The Historical Commission fined the property owner and required him to rebuild a replica of the barn that was demolished. The Commissioner of Inspectional Services issued a building permit to reconstruct the barn at its former size and location (as required by the Historical Commission), both of which were legally nonconforming (less than three feet from the side property line where at least five feet is required, and an approximately 850 square foot footprint where 700 square is the maximum allowed) under Section 30-21(a)(1)(a) or the Newton Zoning Ordinance.

The replica is currently under construction. The property owner is now reapplying for the special permits necessary to expand the new legally nonconforming building and locate his home-based architectural business there.

Administrative determinations:

1. The subject site is comprised of a lot created before December 7, 1953 ("old lot") and is subject to pre-1953 dimensional controls applicable to lots in the SR-3 zone. The following review is based on the materials and plans received to date referenced under Plans and Materials Reviewed, below.

Plans and materials reviewed:

- "Site Plan of Land in Newton, MA, 7 Walnut Street," signed and stamped by Bruce Bradford, Professional Land Surveyor, dated 11/9/09
- Letter from Donald Eurich confirming square footage of the structure
- Drawings for "Barn Restoration, 7 Walnut Street, Newtonville, MA"
 - Dwg No. C-1 "Plot Plan (1992)" by Everett M. Brooks Company, illegible signature and date
 - Dwg No. T-1 "Project Cover Sheet, Project Information," dated 12/10/09, revised 11/9/09
 - Dwg No. A-0 "Existing Floor Plan" dated 1/26/08, revised 11/9/09
 - Dwg No. A-1 "Foundation Plan" dated 12/10/08, revised 11/9/09
 - Dwg No. A-2 "Floor Plan" dated 12/10/08, revised 11/9/09
 - Dwg No. A-3 "Loft Floor Plan" dated 15/28/09, revised 9/14/09, revised 11/9/09
 - Dwg No. A-5 "North Elevation" dated 12/10/08, revised 11/9/09
 - Dwg No. A-6 "East Elevation" dated 12/10/08, revised 11/9/09
 - Dwg No. A-7 "South Elevation" dated 12/10/08, revised 11/9/09
 - Dwg No. A-8 "West Elevation" dated 12/10/08, revised 11/9/09
 - Dwg No. A-9 "Building Section" dated 12/10/08, revised 11/9/09

2. The following table sets forth the applicable dimensional controls for an accessory building in the SR-3 zone:

SR-3 (Old Lot)	Required	Existing	Proposed
Setbacks			
Front	30 ft.	Approx. 177ft.*	N/C
Side	5 ft.	2.7 ft.	N/C
Rear	5 ft.	Approx. 94.2 ft.*	86.7 ft.
Maximum building height	18 ft.	This information is not provided by the applicant, but the "existing" building is the actually replica currently being built.	17.9 ft.
Maximum building footprint	700 sq. ft.	900.8 sq. ft.	1,108 sq. ft.

* Scaled from the plans, information not provided by applicant

3. The existing accessory building (the replica currently being rebuilt on the site) is legally nonconforming with respect to the side setback and maximum building size. The applicant is proposing an addition to the rear of the building. The addition will not increase the setback nonconformity, but it will increase the total size of the already nonconforming building. The applicant must obtain a special permit from the Board of Alderman for the expansion of a nonconforming use or structure under Sections 30-21(a)(2)(b) and 30-21(b).
4. In addition, Section 30-21(a)(2)(b) requires a special permit to use a nonconforming structure in a significantly different manner or greater extent than the existing use. Before it was demolished, the

barn was used for storage. The applicant proposes to use the building in a significantly different manner as a home business. Therefore, a special permit is required.

5. The applicant would like to locate his architectural business in the detached barn on the property. Section 30-8(c)(11)(d) requires a special permit for the use of a detached accessory building for a home business.
6. Section 30-19(d) requires two parking spaces for a single-family residence. Section 30-8(c)(9) lays out parking requirements for a home business in addition to those required for the residence itself. One parking stall is required for each 200 square feet of floor area used for the home business, except that if more than one parking stall is required for the home business, the total number of parking stalls required shall be reduced by one stall. The subject home business is proposed to be located in the 1,408 sq. ft. barn (1,108 sq. ft. on the first floor plus a 300 sq. ft. shop in the basement). Therefore, it requires seven parking stalls ($1,408/200 = 8 - 1 = 7$). The total number of parking stalls that must be provided on the site is nine (7 for home business + 2 for residence = 9). The submitted plans show four parking spaces – two in the garage and two to the west of house. The applicant must request a special permit under Section 30-19(m) to waive the requirement for five additional parking spaces or provide these five additional spaces on-site. If all the spaces are provided, they must comply with the requirements of Section 30-19(h).
7. See “Zoning Relief Summary” below.

Zoning Relief Summary		
Ordinance	Action Required	
	Use	
§30-21(a)(2)(b), 30-21(b)	Expansion of a nonconforming structure	SP per §30-24
§30-21(a)(2)(b)	Use nonconforming structure in a significantly different manner	SP per §30-24
§30-8(c)(11)(d)	Use of detached accessory structure for home business	SP per §30-24
§30-8(c)(9), §30-19(h), §30-19(m)	Waiver for five required parking spaces	SP per §30-24, or find a way to provide them on-site, if possible.



CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development
Michael J. Kruse, Director

ATTACHMENT B

David B. Cohen
Mayor

E-mail
mkruse@newtonma.gov

Newton Historical Commission Demolition Review Decision

Date: 12/22/08 Zoning & Dev. Review Project# 081200015

Address of structure: 7 Walnut Street

Type of building: Barn

If partial demolition, feature to be demolished is Roof, facade

The building or structure:

is ☒ **HISTORIC** as defined by the Newton Demolition Delay Ordinance (See below).

is ☐ **NOT HISTORIC** as defined by the Newton Demolition Delay Ordinance.
Demolition is not delayed and no further review is required.

Because the building or structure:

is ☒ is not ☐ in a local historic district.
is ☒ is not ☐ on the National Register.
is ☒ is not ☐ historically or architecturally important at the local, State or federal level.
is ☒ is not ☐ located within 150 feet of a local historic district.

The Newton Historical Commission staff:

☒ **APPROVES** the proposed project based upon materials submitted see attached for conditions (if any).
Demolition is not delayed and no further review is required. See approved plans.

☐ **DOES NOT APPROVE** and the project requires Newton Historical Commission review.

The Newton Historical Commission finds the building or structure:

☐ is **PREFERABLY PRESERVED – PLEASE SEE BELOW.**

☐ is **NOT PREFERABLY PRESERVED – Demolition is not delayed and no further review is required.**

Demolition:

☐ is delayed until _____

☐ is not delayed because the delay has been waived - see attached for conditions

Determination made by:

Brian Lever



CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

Michael J. Kruse, Director

David B. Cohen

Mayor

Telefax

(617) 796-1142

RECORD OF ACTION:

DATE: March 27, 2009

SUBJECT: 7 Walnut Street Violation

At a scheduled meeting and public hearing on March 26, 2009 the Newton Historical Commission, by vote of 4-0,

RESOLVED to levy a fine for non-compliance with the Demolition Delay Ordinance for demolition of a historically significant barn at 7 Walnut Street for the number of days passed from the date of demolition, March 18, 2009, being eight days at \$300 per day for a total fine of \$2,400.

Voting in the Affirmative:

Donald Lang, Chair

Rodney Barker, Member

David Morton, Secretary

Zack Blake, Alternate

At a scheduled meeting and public hearing on March 26, 2009 the Newton Historical Commission, by vote of 4-0,

RESOLVED to waive further fines for non-compliance and the two year ban on building permits contingent upon the following: (1) that plans for the exact replacement of the barn be submitted and approved by staff and/or the Commission within 30 days; (2) that an exact replica be constructed in its approximate location to the satisfaction of the Commission and/or staff within six months with an emphasis on the full completion and accuracy of the exterior; (3) that the replica barn will use the salvaged historic barn doors and window; (4) that if the replica barn is not completed to the satisfaction of the Commission within six months that the time remaining in the two year ban on building permits and the fine retroactive to March 26, 2009 will be re-instituted.

Voting in the Affirmative:

Donald Lang, Chair

Rodney Barker, Member

David Morton, Secretary

Zack Blake, Alternate

At a scheduled meeting and public hearing on March 26, 2009 the Newton Historical Commission, by vote of 4-0,

RESOLVED to request the Inspectional Services Department to allow the replication of the historic barn as soon as possible.

Voting in the Affirmative:

Donald Lang, Chair

Rodney Barker, Member

David Morton, Secretary

Zack Blake, Alternate

Brian Lever, Commission Staff

Newton Historical Commission

1000 Commonwealth Avenue, Newton, Massachusetts 02459

Email: blever@ci.newton.ma.us

www.ci.newton.ma.us



CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

Michael J. Kruse, Director

(617)-796-1120

Telefax

(617) 796-1142

David B. Cohen

Mayor

RECORD OF ACTION:

DATE: December 28, 2009

SUBJECT: 7 Walnut Street

At a scheduled meeting and public hearing on December 22, 2009 the Newton Historical Commission, by vote of 5-2,

RESOLVED to issue an additional time extension of six months to complete the replacement barn and leave unfinished the south façade in order to expand the building to the plans as submitted with the following condition: that if a special permit is not issued for the expansion of the building that the replacement barn be built to the plans approved by the Commission in July 09 within the additional timeframe allotted.

Voting in the Affirmative:

Rodney Barker, Member
Nancy Grissom, Member
Alfred Wojciechowski, Member
Donald Tellalian, Alternate
William Roesner, Member

Voting in the Negative:

Zack Blake, Member
David Morton, Member

Not Voting:

Donald Lang, Member
Leonard Sherman, Alternate

A handwritten signature in cursive script, appearing to read "Brian Lever", written over a horizontal line.

Brian Lever, Commission Staff

CITY OF NEWTON
ENGINEERING DIVISION

MEMORANDUM

To: Alderman Ted Hess-Mahan, Land Use Committee Chairman

From: John Daghljan, Associate City Engineer

Re: Special Permit – #7 Walnut Street

Date: January 20, 2010

CC: Lou Taverna, PE City Engineer (via email)
Candice Havens, Acting Director of Planning (via email)
Linda Finucane, Associate City Clerk (via email)
Alexandra Ananth, Planner (via email)

In reference to the above site, I have the following comments for a plan entitled:

*Site Plan of Land in
Newton, MA
#7 Walnut Street
Prepared by: Everett Brooks Company
Dated: November 9, 2009*

Executive Summary:

- It appears that a modest addition to the existing barn is proposed as is a gravel parking area. The existing sanitary sewer service to the barn is also being upgraded to connect the structure to an on-site manhole. As the total net impervious area is less than 400 square feet, no on-site drainage improvements are required; however, the applicant should consider the use of rain barrels to collect runoff from the barn's roof and re-used for the proposed garden areas.

Public Benefit:

- Should this petition be approved, the petitioner shall install cement concrete sidewalk and driveway apron that are currently gravel and asphalt respectively along the southeasterly frontage, as this is a walking path for students attend public schools in the area.

General:

1. As of January 1, 2009, all trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property and includes foundation excavations.
2. The applicant will have to apply for Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction.
3. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
4. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *T*
5. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

Zoning Map

7 Walnut St.

Legend

7 Walnut St.

Contour Lines

Two Foot Contour

Index (10 Foot) Contour

Depression Contour

Depression - Index Contour

Bridge Abutment

Culvert

Wall

Building Outlines

Single Res. 1

Single Res. 2

Single Res. 3

Business 1

Business 2

Business 4

Business 5

Limited Manufacturing

Manufacturing

Multi-Res. 1

Multi-Res. 2

Multi-Res. 3

Multi-Res. 4

Mixed Use 1

Mixed Use 2

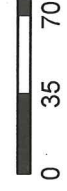
OS/Rec.

Public Use

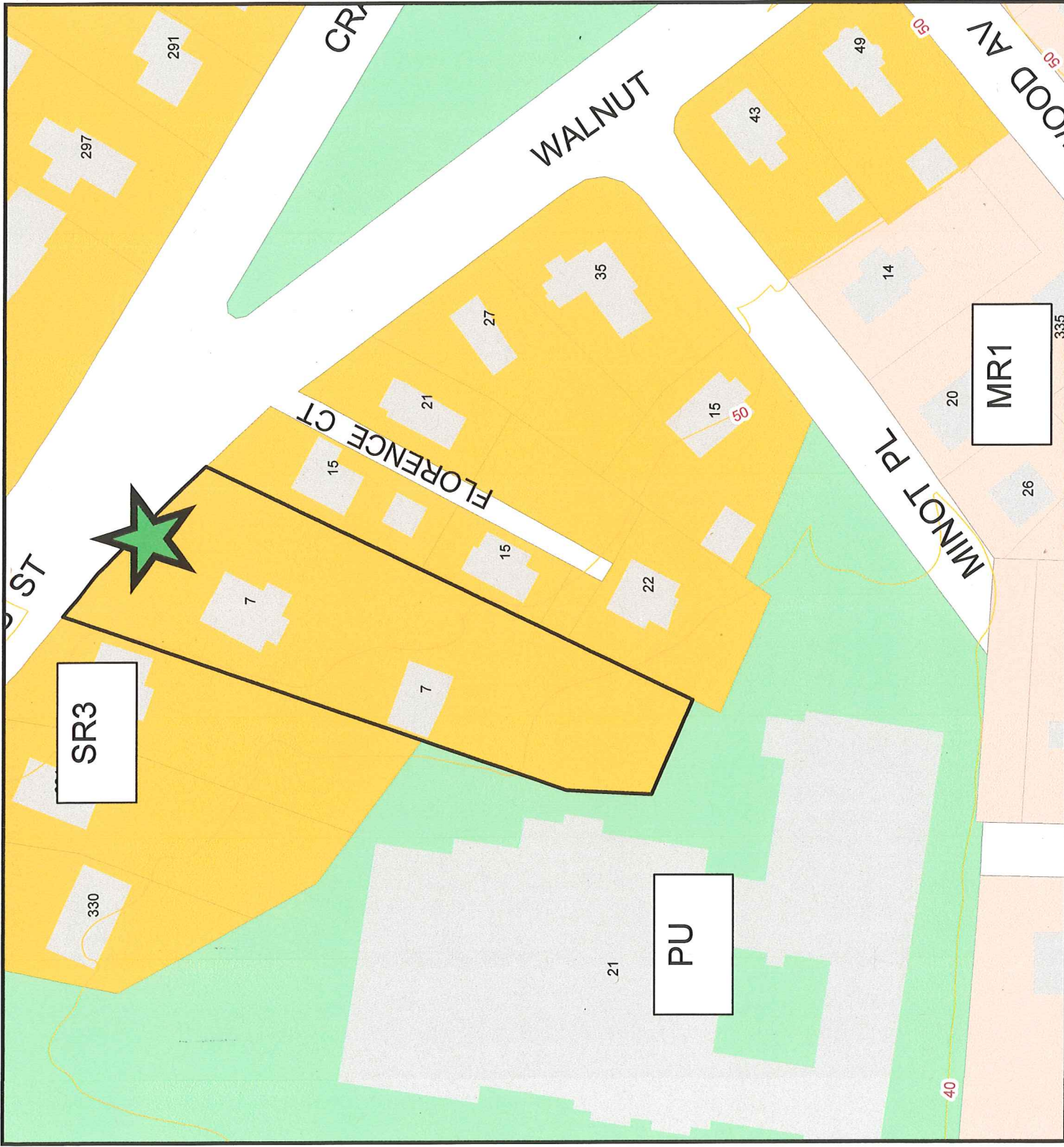


ATTACHMENT F

The information on this map is for informational purposes only. The City of Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for their own purpose. City departments do not approve applications based on this map.



MAP DATE: January

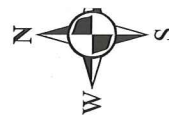


Land Use Map

7 Walnut St.

Legend

- 7 Walnut St.
- Building Outlines
- Single Family Residential
- Multifamily Residential
- Commercial
- Industrial
- Mixed Use
- Vacant Land
- Golf Course
- Open Space
- Private Educational
- Nonprofit Organizations
- Public Housing
- Tax Exempt
- Unspecified



ATTACHMENT G

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MAP DATE: January

